

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 94-CR-741 JB

LAVONNE JOE,

Defendant.

**UNOPPOSED MOTION TO DISMISS PETITION
FOR REVOCATION OF SUPERVISED RELEASE**

The Defendant Lavonne Joe (Mr. Joe), through undersigned counsel, respectfully moves the Court to dismiss the pending Petition for Revocation of Supervised Release. In support of this motion, Mr. Joe states as follows:

1. On March 31, 2021, the Government filed a Petition for Revocation of Supervised Release. The basis for said petition was a misdemeanor criminal complaint, filed in Bernalillo County Metropolitan Court (Case No. T-4-DV-2021-00935), alleging that Mr. Joe committed the offense of Criminal Damage to Property, a petty misdemeanor. The factual allegation was that Mr. Joe had broken a window at the apartment of his ex-girlfriend. The ex-girlfriend was not present at the apartment at the time of the alleged offense, and thus was not a witness to the alleged vandalism. Mr. Joe pled not guilty and was preparing to contest the allegation at trial.

2. On August 6, 2021, rather than proceed to trial as had been requested by Mr. Joe, the State of New Mexico dismissed its case against Mr. Joe. As such, there is no longer any criminal case pending against Mr. Joe, and he was not convicted or adjudged guilty of any offense.

3. The Government bears the burden of proof for a finding that a defendant violated his terms of supervised release continues to be a "preponderance of the evidence" standard. 18 U.S.C. § 3583(e)(3). Based on the dismissal of the Bernalillo County Metropolitan Court case and the fact that said case was the sole basis for the filing of the Petition for Revocation of Supervised Release, a good faith basis exists to support a finding that Mr. Joe did not violate his conditions of supervised release. As such, pursuant to the Court's authority as governed by Fed. R. Crim. P. 32.1 and 18 U.S.C. § 3583, Mr. Joe respectfully requests the dismissal of said petition.

4. Mr. Joe is not in custody. He has a stable residence, is gainfully employed, and has been compliant with his conditions of release.

5. AUSA David Cowan and U.S. Probation Officer do not oppose this motion.

WHEREFORE, the Defendant Lavonne Joe respectfully requests that this Court dismiss the pending Petition for Revocation of Supervised Release, that Defendant be continued on supervised release on conditions previously set and agreed to by the parties, and for such other and further relief that this Court deems just and proper.

Respectfully Submitted:

By: /s/ Joe M. Romero, Jr.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of August 2021, I filed the foregoing electronically through the CM/ECF system, and served the same to opposing counsel, AUSA David Cowan.

By: /s/ Joe M. Romero, Jr.
Joe M. Romero, Jr.